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REMARKS

The Applicant thanks the Examiner for examining this application. This is a response to the Advisory Action mailed on March 8, 2010. By way of this response, claims 14-16 and 18 are cancelled. New claims 28-29 are added. Support for the claim amendments and newly claimed material can be found, for example, in the Summary and (for example) at pages 7-10. See also Figures 1 and 2 of the Drawings, which illustrate the claimed features.

35 U.S.C. 101

In an Office Action mailed on 12/2/2009, claims 13-18 are rejected under 35 U.S.C. 101 because claim 13 would allegedly be interpreted by one of ordinary skill as a system of software per se (software means only and not embedded in a computer readable storage medium), failing to fall within a statutory category of invention.

Claim 13 as amended recites statutory subject matter. Figure 1 shows a cable modem 6 with an operating software load 18 embedded in machine readable media of the cable modem (note it is implicit that the operating software load 18 is embedded in the machine readable media of the cable modem, otherwise the operating software load would be inaccessible and therefore not be able to function as operating software). Also notice that the cable modem 6 comprises an embedded MTA (media terminal adapter), thus the cable modem is clearly shown comprising a machine readable media upon which software, e.g. the MTA, is embedded. Page 10 lines 1-5 describes the software switches of the operating software 18 as being implemented in the MTA of the modem 6 (in one embodiment). Thus it is clearly the case that the applicant's specification teaches an embodiment of a cable modem with an operating software load embedded in machine readable media.

Also, claim 13 includes the feature of a "configuration file", which is shown, for example in Figure 2, being modified on a configuration server 22 and being communicated electronically to a TFTP server 35 and from there communicated

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electronically to the modem 6. Thus the "configuration file" is clearly not a pencil and
paper media (it is an electronic data file) and it is by definition (a "file") embedded on a
machine readable media (e.g. a machine memory). Otherwise were it not embedded in
some form of media readable by a machine, the configuration server could not modify
and communicate it, and it would not be a "file". The term "file" as applied to electronic
data implicitly carries with it structural feature of being embedded on electronic media.
"a collection of related data or program records stored on some input/output or auxiliary
storage medium"; *Dictionary.com*. In its entirety claim 13 recites customer equipment,
network equipment, a configuration file, and a software operating load embedded in
machine readable media, and thus clearly as a whole falls within one or more statutory
classes.

35 U.S.C. 112

Claims 1-18 and 26-27 are rejected under 35 U.S.C. 112, first paragraph, as
allegedly containing subject matter which was not described in the specification in such a
way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the
time the application was filed, had possession of the claimed invention.

The claim amendments render the prior rejection under 35 U.S.C. 112 moot
because they remove the objected to subject matter from the claims.

Novel and Non-Obvious

One skilled in the art reading the references previously cited in this application
would not reach the inventions described in the present claims. The claims comprise
features not found in the previously cited references, e.g., an operating software load of
customer equipment comprising switch setting, each controlling a predetermined group
of device setting for compatible operation between the customer equipment and
equipment of the communication network; also, the operating software load adapted to
apply the settings of the switches in the configuration file to turn the switches of the

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operating software load on or off, enabling or disabling entire groups of settings of the customer equipment with each switch setting of the configuration file.

These features of the claims are non-obvious over any combination of the cited references under any reasonable analysis, at least because the claims include features not taught in the references, and reaching the present claims by combining the references, if possible at all, would involve changing or extending the features that are disclosed in the references in ways that alter their function and interaction in non-obvious ways.

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Conclusion

In view of the above amendments and remarks, applicant believes that this application is now in condition for allowance. Applicant respectfully requests that a Notice of Allowability be issued covering the pending claims. If the Examiner believes that a telephone interview would in any way advance prosecution of the present application, please contact the undersigned.

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